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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

No. CR 08-0938 LHK

Plaintiff,

RESPONSE TO GOVERNMENT'S SENTENCING MEMORANDUM

VS.

JAMIE HARMON.

Defendant

Defendant Jamie Harley respectfully submits this brief response to the government’s sentencing memorandum. The government bases its request for a 30-month sentence in part on its “concern[] about the defendant’s actions as an attorney” in February 2010. Govt. Memo., 4. The government alleges that Ms. Harley “made false representations to a Superior Court Judge in a matter involving client funds.” *Id.* This accusation is inaccurate, apparently as a result of the government’s misunderstanding of that event – an event, incidentally, that has no factual connection to the offense of conviction. Therefore, the Court should disregard the government’s argument relating to this incident.

1 The government writes that in early 2010 Ms. Harley represented a minor, JL, and his
 2 brother, RL, in two unrelated prosecutions and that she charged \$15,000 for JL and \$30,000 for
 3 RL. *Id.* Ms. Harley then allegedly convinced a judge to release \$45,000 from a locked account
 4 for JL's representation but failed to inform the court "that the funds were also to be used to
 5 defend RL." *Id.* At the conclusion of the case, according to the government, Ms. Harley
 6 provided an accounting of the funds spent in JL's case but did not disclose that the money was
 7 used for both cases. *Id.* at 5.

9 What actually happened is that Ms. Harley agreed to represent JL for a flat fee of
 10 \$45,000, exactly as she told the court. *See Exhibit A* (signed retainer agreement for JL providing
 11 that "client agrees to pay a fixed fee of \$45,000 of which [sic] has been paid through court
 12 order");¹ Govt. Memo., Attachment C, at 3 (transcript in which Ms. Harley told the Superior
 13 Court Judge that "this \$45,000 is an all-inclusive flat fee"). She charged nothing to represent
 14 RL. *See* Govt. Memo., Attachment E (letter to the State Bar stating that "Ms. Harley agreed to
 15 handle both cases for the cost of one case"). The accounting she filed with the court showed her
 16 work for JL. *See* Govt. Memo., Attachment D. It did not include her work for RL because she
 17 took that case pro bono.

20 Contrary to the government's assertion, Ms. Harley's conduct in the JL and RL cases
 21 does not demonstrate a "lack of respect for the law." And far from showing that Ms. Harley is
 22 *more* deserving of punishment, the incident highlighted by the government only underscores that
 23 Ms. Harley's history and characteristics make a non-custodial sentence appropriate. Ms. Harley
 24 agreed to take on two serious cases – both attempted homicides – at the same time, charging only

27 ¹ Names of the individuals have been redacted from Exhibit A. Counsel will provide unredacted
 28 copies to the Court and the government.

1 a modest fee for one and nothing at all for the other, because of her commitment to the family.

2 As she told the Superior Court judge at the time: "I'm completely aware of the family's financial
3 situation, and as is generally my practice, I will do everything I can for this family, even if it
4 includes an appeal, should that become necessary." Attachment C to Govt. Sent. Memo, at 4.

5 Ms. Harley respectfully requests that the Court disregard the government's incorrect
6 allegations in making its sentencing decision.

8 Dated: January 12, 2015

9 Respectfully submitted,

10 _____ /s/
11 Edward W. Swanson
12 August Gugelmann
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14 Attorneys for JAMIE HARMON
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